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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

RE: MM Docket No. 93-114, RM-7772

Dear Ms. Searcy:

Transmitted herewith is an original and four copies of "Comments" filed in connection with the above-referenced rulemaking proceeding.

Should any questions arise concerning this matter, kindly contact the undersigned directly.

Respectfully submitted,

MAY & DUNNE, CHARTERED

By: 

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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JUN 18 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of) MM Docket No. 93-114
)
 Review of Commission's) RM-7772
 Rules Governing the Low Power)
 Television Service)

To: The Commission

COMMENTS

May & Dunne, Chartered, on behalf of its TV Translator and Low Power Television Station clients¹ (hereinafter referred to as "M & D Clients"), and pursuant to Section 1.415 of the Commission's Rules and Regulations, 47 C.F.R. § 1.415 (1993), hereby submits the following comments in response the Notice of Proposed Rulemaking in the above-captioned docket, released April 22, 1993.

A. Substantial Relaxation Of The Standard For Accepting Applications Would Not Serve the Public Interest.

1. M & D Clients vigorously oppose a substantial relaxation of the Commission's present "letter perfect" standard for accepting TV Translator and LPTV Applications. A relaxation of the standard now, when the LPTV Branch has finally disposed of most of the applications filed during the early 1980's when a more relaxed standard was applied, risks a repeat of that unhappy experience. The number of speculative and poorly prepared applications so overwhelmed the Commission's resources that serious applicants were forced to wait three, four, or more years before

¹. A list of the parties on whom these Comments are filed is included in the attached Appendix A.

their applications were processed. Any policy which risks opening up the application floodgates again is a profound disservice to the public interest.


2. Several of the clients noted in Appendix A filed LPTV or translator applications in the interim following the adoption of the Notice of Proposed Rulemaking proposing the adoption of the rules governing LPTV stations, and the imposition of the first freeze on filing LPTV station applications in April, 1981. One of those clients supporting these comments, Friendly Broadcasting Company, filed an application for channel 25 in Van Nuys, California in April, 1981 that is still pending. These processing delays were caused largely by the number of applications filed by application mills and speculators, which were often, indeed usually, poorly prepared.

3. The "letter perfect" standard was one, and in many ways, the Commission's most successful response to the problem. A high acceptance standard raises the costs to applicants by placing a premium on careful and professional application preparation, but it makes it much more likely that the people who file applications have the commitment and resources to build the station once the application is granted. The Commission staff is also not wasting its time processing bogus applications. A substantial relaxation of the acceptance standard will allow, even encourage, the creation of

"backyard" engineering firms mass producing poorly prepared applications. The Commission thus risks a multiplication of the

suggest that the standard be changed to that formerly applied to FM applications, "the substantially complete" standard, see, e.g., FM Applications, 58 R.R.2d 166 (1985). This standard allowed applications to be processed if certain errors were discovered, if the correct information was available in the application itself or easily discoverable in the Commission's files, such as the coordinates of an antenna site for an existing broadcast station. See, e.g., David T. Murray, 5 FCC Rcd 5770, 68 R.R.2d 537 (1988). This standard has the advantage of being familiar to the Commission staff and legal and engineering professionals, while relaxing the acceptance standard to allow the Commission to clarify conflicting application information or correct errors in applications by supplying information that is easily available in Commission files.

6. To supplement the less rigid, but still formidable standard suggested above, M & D, Clients would suggest that applicants be given a period of 30 days from the date the application is noted in the Commission as tendered for filing to file amendments as of right to correct any errors effecting the acceptability of the application. This 30 day period allows applicants to correct typographic or other errors which might lead to the application's rejection. This 30 day period for filing amendments would not impose a great burden on Commission staff



have begun processing the application amended, and consideration of the amended information would avoid the additional studies and staff work required of applications to be rejected.

B. Four Letter Call Signs Would Greatly Encourage the Economic Viability of the Low Power Television Service.

7. Many of M & D Clients² strongly support the assignment of four letter call signs to locally originating low power television stations, and believe that such assignments would make a significant difference in LPTV station's acceptance by members of the general public, by potential advertisers, and by local cable systems.

8. Four letter call signs are a broadcast station convention that is now well over 60 years old. Members of the general public, by habit, identify broadcast stations by call sign. Many LPTV stations have discovered that viewers have difficulty remembering the call signs of LPTV stations because they do not fit an identified and comfortable pattern. Moreover, these surveys have found that the lack of four letter calls signs has the effect of stigmatizing LPTV stations as somehow not "real" broadcast stations. Often members of the public equate LPTV station call

². This section of comments are not supported by: Trinity Christian Center of Santa Ana, Inc.; National Minority TV, Inc.; and, Inspiration Television of Southern Oregon, Inc.

potential complaints may be not inconsiderable, and certainly any additional administrative burden should be avoided unless the proposed regulation serves some obvious or identifiable public good. That is not the case here.

12. Imposing special eligibility requirements, moreover, is simply not fair to LPTV stations, who are supposedly to be subjected to fewer administrative burdens than full power stations, yet would, in this instance be held to a higher standard than full power stations--a full power station need not broadcast any specific amount of local programming, or, in fact, any local programming at all, to be assigned a call sign.

13. M & D, Clients therefore support the assignment of four letter call signs to all on-the-air LPTV stations broadcasting programming which meets the definition of "local origination" in Section 74.701 (h).

C. The Commission Should Expand Reliance On Terrain Shielding

14. The TV translator service grew and developed throughout

the consideration of terrain shielding showings in certain circumstances shouldn't substantially delay the processing of applicants. As the Commission noted, the number of applications filed has dropped dramatically, making the prospective delay in processing terrain shielding applications less onerous than was formerly the case. The standards and requirements for submitting such showings are now well known to engineering consultants and members of the bar, as well as the Commission staff. M & D Clients therefore urge the Commission to accept and consider evidence of terrain shielding in all instances where such showings will provide a more accurate picture of the actual interference contour of the proposed station, with one exception, which is discussed below. This would mean that the Commission would accept and process applications with terrain shielding information in the following situations: (1) when the initial application is filed, whether or not that application is mutually exclusive with another; and, (2) to show that an application is not mutually exclusive with another.

15. Relaxed rules allowing the expanded consideration of terrain shielding would particularly increase the possibility of filing new applications, and expanding the coverage of existing stations, in rural and mountainous areas where the need for local over-the-air television service is greatest. No less than eight M & D Clients have taken advantage of the existing rules on terrain

shielding, and these clients and others believe that even greater benefits will attend a further relaxation of the rules.³

16. M & D Clients do not support, however, the acceptance of terrain shielding showing submitted to prove non-interference to another station authorization if the showing is submitted in response to a Commission action dismissing the application or otherwise raising issues concerning the technical representations in the application. Once again, allowing the submission of terrain shielding showings to cure a defect identified by the Commission in effect rewards those who perform careless or inadequate interference studies. Once again, we do not believe that the public interest is served by allowing applicants to cure sloppily prepared or inadequate engineering.⁴ Terrain shielding, when used by competent professionals in preparing an application, does not add a great deal to the Commission's processing burden and may result in the initiation of TV service where it was not before

³. The clients who have submitted or benefitted from terrain shielding showings include: Alaska Broadcast Television (K20AG, Anchorage, Alaska); Dr. Stephen Hollis (W16AF, W22AH, W44AT, W46BI, Columbus, Georgia); Inspiration Television of Southern Oregon, Inc. (permittee of K22AZ, San Antonio, Texas); Christian Broadcasting of Yakima, Inc. (K64DH, Yakima; W39 , Ellensburg, Washington); and, Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network)

⁴. One exception would be that an applicant, consistent with paragraph above, would be allowed to submit a terrain shielding showing during the 30 day amendment period.

available. Allowing the submission of post filing terrain shielding showings to cure defects identified by the Commission would encourage speculators and poorly prepared applications.

D. The Major Change Rule Should Be Liberalized In Accordance With Commission Proposals.


17. M & D Clients, many of whom are licensees, have a great deal of experience, all of it unpleasant, surviving within the strict limitations of the Commission's present major change rules. LPTV and Translator authorizations are subject to a great many modification applications because site owners are often reluctant to lease space to members of a new and often untried service such as LPTV. During the time applications are on file, especially those that must go through a lottery, equipment specifications change, particularly antenna specifications. Modifications are often necessary to accommodate changes in elevation on a tower or other structure which were negotiated after the construction permit application was filed. In most instances the permittee's or licensee's options were limited to waiting up to a year for a major change window to open, or submitting a minor change application that resulted in the diminution of the station's power and coverage at a time when the station needs as much power and coverage as possible to become established in the community. The strictness of the major change rule often results in the Commission devoting its scarce engineering resources to processing two applications--a

minor change application to allow the station to be built and a subsequent major change application filed to recapture some of the power and coverage lost in filing the minor change application. Accordingly, M & D Clients support any relaxation of the major change rule as serving the public interest in quick provision of television service as well as conserving the Commission's processing resources. The changes to the definition of a major change proposed by the Commission will provide most of M & D Clients who use directional antennas substantial new flexibility.

Respectfully submitted,

MAY & DUNNE, CHARTERED

By:


Joseph E. Dunne III
Colby M. May

[1;Or

APPENDIX A

- Access America Television, Inc.
- Alaska Broadcast Television, Inc.
- David L. Grimes
- Arizona Christian Television System, Inc.
- Beech Street Communications Corporation
- Central Coast Good News, Inc.
- First Cullman Broadcasting, Inc.
- Rainbow Ministries, Inc.
- Dr. Stephen Hollis
- Christian Communications, Inc.
- ACTS of Marion, Inc.
- Lightning Broadcasting, Inc.
- IWU Communications, Inc.
- Killeen Christian Broadcasting Corporation
- Winfield Publishing Company
- Muscatine Christian Broadcasting, Inc.
- Fairlane Assembly of God
- Southtown's Christian Center
- Inspiration Television of Southern Oregon
- HCS Cable TV, Inc.
- Sunbelt Media Group, Inc.
- Rod Payne
- Christian Family Network TV
- Christian Broadcasting of Yakima
- All American TV, Inc.
- Communications Dynamics

- Trinity Broadcasting of Arizona, Inc.
- Trinity Broadcasting of Denver, Inc.
- Jacksonville Educators Broadcasting, Inc.
- Oceania Broadcasting Network, Inc.
- Sweetgrass Hills Inspirational
- National Minority TV, Inc.
- Central Carolina Broadcasting Corp.
- Kathy Potera
- Spirit Outreach Network
- Tri-State Christian TV, Inc.
- Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network
- Victory Communications, Inc.
- Family Broadcasting, Inc.